



3rd January 2013

Mr. Timothy Flor  
Supervisor  
International Trade Remedies Branch  
Australian Customs and Border Protection Service  
5 Constitution Avenue  
Canberra 2601 ACT

Dear Tim,

Re: Investigation into Dumping of Chinese 2,4-D

Recent discussions with ■■■■■■■■■■ (■■■■■), a major Chinese producer of 2,4-D acid (supplied only to the export market and mainly to Australia, USA and Brazil), confirm that there are two distinct types of 2,4-D acid:

- 2,4-D acid with normal Dioxin levels (ND); and,
- 2,4-D acid with low Dioxin levels (LD).

Nufarm produces LD 2,4-D acid at its Laverton North plant. The herbicide 2,4-D is considered to be a major contributor to excessive levels of Dioxin in the environment even though the US EPA RED on the reregistration of 2,4-D in the US ranked the product as only the seventh major contributor to Dioxin levels, well behind wood burning and the production of paper pulp.<sup>1</sup>

■■■■■ identified three markets where LD 2,4-D acid is mandatory (USA, Brazil, EU) whereas ND 2,4-D is generally sold in Australia because APVMA has not mandated the use of LD 2,4-D. ■■■■■ produces both ND 2,4-D acid and LD 2,4-D acid, and claims that there is a surplus of the former and a shortage of the latter. Nufarm produces LD 2,4-D and this is why most of its output is exported to the US where it can command premium pricing compared with the Australian market. Because LD 2,4-D is not mandated in Australia, this would allow Nufarm to import ND 2,4-D from India for the Australian market. We are not suggesting that there is anything wrong with this practice because ND 2,4-D is perfectly safe and, indeed, LD 2,4-D is something of an over-reaction to the Dioxin issue. Two other Chinese producers with AC clearance in Australia (■■■■■, ■■■■■) produce LD 2,4-D.

■■■■■ has quoted a price of US\$■■■■■/kg FOB China for LD 2,4-D acid and US\$■■■■■/kg FOB China for ND 2,4-D acid. The shortage of Chinese LD 2,4-D acid has resulted in the price increasing from US\$■■■■■/kg in mid-2012 whereas the

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<sup>1</sup> USA Environmental Protection Agency. "Reregistration Eligibility Decision for 2,4-D" EPA 738-R-05-002, June 2005.

surplus of Chinese ND 2,4-D acid has resulted in the price falling. Thus when Nufarm suggests that the price for Chinese 2,4-D is declining, it is referring to ND 2,4-D acid and not the LD 2,4-D acid it produces at Laverton North and sells mainly to the US market. Therefore a declining price in Chinese ND 2,4-D acid will not adversely impact Nufarm's production. ■■■■ claimed that the decline in the price of Chinese ND 2,4-D acid has had a severe impact on Chinese margins, but producers are not selling below cost and, indeed, would simply cease production if the price fell to a level that placed them in a loss-making situation. While we acknowledge that ND and LD 2,4-D acid are substitutable in Australia, Nufarm's application to continue the anti-dumping duty on Chinese imports of 2,4-D acid is cynical in the extreme because of its:

- export of locally produced high value LD 2,4-D for export to the US where only this quality is permitted.
- import of low cost ND 2,4-D from India for the domestic Australian market.

We submit that Nufarm's entire case is a deliberate obfuscation of the price differential between ND 2,4-D acid and LD 2,4-D acid. As we suggested previously, there is nothing wrong with the Nufarm strategy, but it does not warrant protection by way of continuing the anti-dumping duty on imports of Chinese ND 2,4-D.

■■■■ informed us that further new, small and illegal producers of ND 2,4-D acid have temporarily entered the market and are placing pressure on prices for this grade of product in China. ■■■■ ridiculed Nufarm's claim of 300 illegal 2,4-D producers and suggested that the number is closer to 25. Nufarm, of course, has not responded to our claims that it is impossible for illegal 2,4-D to reach Australia because APVMA requires an ICAMA certificate before it will clear a source. Moreover, it is not feasible for an illegal source of 2,4-D in China to obtain an ICAMA certificate given the very high cost (US\$200,000) and time involved (two years). The reputable, licensed 2,4-D acid producers in China which have APVMA clearance in Australia do not deal with unlicensed producers. Apart from quality and ethical issues, the tenure of illegal producers is short and consequently they focus on the domestic market.

Thus when Nufarm suggests that a normal value for 2,4-D acid should be based on its own costs, it presumably refers to its own production of LD 2,4-D acid rather than the ND 2,4-D acid it imports from India. Nufarm's objective is undoubtedly to seek a very high anti-dumping duty on ND 2,4-D acid bench-marked against its own production of LD 2,4-D acid by falsely equating the two products. Nufarm would then be at liberty to increase the Australian price of its imported ND 2,4-D to a similar level to the price charged for LD 2,4-D.

Yours sincerely,



Myles Stewart-Hesketh

Director